HIGHT COURT OF JUDICATURE CHHATTISHGARH : BILASPUR

Single Bench : Hon'ble Shri S.R. NAYAK,

Writ Petition NO. 5579OF 2005

PETITITIONERS

1. Kalyan Singh Meshram, Aged about 44 years, S/o Ram Bharos Meshram, R/o Village Mankeshri, Post Kanker, District Kanker Bastar (C.G.)
2. Govind Ram Sarva, Aged about 43 years, S/o C.R. Sarva, R/o Sanjay Nagar, Kanker, District Bastar (C.G.)
3. Smt. Chandra Prabha Rangare, Aged about 44 years, W/o R.C. Rangare, Charama, Kanker, District Kanker. (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through the Secretary, Tribal Development Department, Mantralay, D.K.S. Bhawan, Raipur. (C.G.)
2. The Principal Government College of Education, Raipur, Tahsil & Distt. Raipur (C.G.)
3. The Collector, District Bastar (C.G.)

Present :

Mr. Sourabh Jaiswal, learned counsel for the petitioners.
Mr. Utkarsha Verma, learned P.L., for the State of Chhattisgarh.

ORAL ORDER

(Passed on 2nd December, 2005)

The petitioners herein are all Government employees working as Upper Division Teachers in different Government High Schools under the Tribal Welfare Department. They have been deputed to pursue additional

degree leading to B.Ed as in-service departmental candidates. It appears that the Government College of Education admitted them initially overlooking the fact that they did not possess the prescribed qualifications. Later, the Principal, Government College of Education cancelled their admission on the ground that they have secured lesser marks, that is to say, less than 45% of marks in B.A./M.A. Degree courses. Being aggrieved by the said action, this writ petition is filed seeking intervention of this Court..

(2) Heard learned counsel for the parties. Although it was contended by learned counsel for the petitioners that a candidate who seeks admission to B.Ed. course should have minimum 45% of marks in the qualifying degree course is not applicable to the in-service candidates who are deputed to pursue B.Ed course through the Department of Tribal Welfare, learned counsel was not able to show me any statutory rule or regulation which exempts in-service candidates deputed by the Tribal Welfare Department to pursue B.Ed. course in Government Colleges from the above prescription. Secondly, it was contended that similarly circumstanced certain other candidates who are already admitted to the B.Ed. course notwithstanding they had secured less than 45% of marks and therefore similar treatment should be meted out to the petitioners also. This submission of the learned counsel is not acceptable to the Court. It is well settled that simply because a public authority has granted a benefit of advantage to a person in breach of public law to which he is not entitled in terms of law, that circumstance itself would not justify the Court to issue direction or mandamus to such public authority to commit similar illegality or irregularity. Therefore, the second contention is required to be rejected.

(3) In the result, I cannot take any exception to the action of the Principal, Government B.Ed. College in canceling the admissions of the petitioners herein on the ground that they have secured less than 45% of

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marks in the qualifying degree. The writ petition is, there, dismissed, however, no order as to costs.

Sd/-
Chief Justice

Boojesh